

Minutes of the Teleconference of the Lottery Advisory Commission
November 2, 2005

Attendance

A teleconference of the Lottery Advisory Commission was held from 2:00 - 3:10 p.m., on Wednesday, November 2, 2005. Representing the Commission were Chairman RaeAnn Kelsch, Representative Lois Delmore, Senator Jerry Klein, Mr. Laurel Thoreson, and Ms. Darlene Watne. Representing the North Dakota Lottery were Mr. Chuck Keller, director, and Ms. Missy Reich, administrative assistant. Attorney General Wayne Stenehjem participated in some of the discussion.

No representative of the media or public participated.

Approval of Minutes

Commissioner Watne made a motion to approve the minutes of the September 21, 2005 meeting. Representative Delmore seconded the motion. The motion passed 5-0.

Proposed Administrative Rules

Mr. Keller provided the Commission with an overview of the substantive proposed administrative rules, including retailer bonus commissions for selling large tier prize winning tickets, license fees, ineligible players, retailer promotions, subscriptions, and addition of a 7th chapter related to the new game "2by2." He indicated that several rules will become effective November 8, 2005 when the draft rules will be filed with the North Dakota Legislative Council. The draft rule on retailer bonus commissions will be effective January 1, 2006, and all other draft rules will be effective April 1, 2006. By law, the attorney general may issue emergency rules that may be effective before April 1, 2006.

In regard to retailer bonus commissions, Mr. Keller indicated that this was an issue that the Retailer Advisory Board and several retailers have encouraged the Lottery to consider. He provided the members of the Commission with a document titled "Retailer Incentives – U.S. Lotteries." Mr. Keller explained that the document reflects the various types of sales commissions that other government lotteries provide their retailers. Almost all other government lotteries provide their retailers with some type of bonus commission on the sale of large tier prize winning tickets. He said that the bonus commissions that are proposed are comparable to the commissions paid retailers by the Minnesota and South Dakota Lotteries. Mr. Keller said the primary purpose of the bonus commission is to prompt retailers to actively and aggressively sell lottery tickets, especially the Power Play option for Powerball. A secondary purpose is to reward retailers for their efforts in supporting the Lottery. He indicated that should players in North Dakota hit large tier prize winning tickets, especially jackpots, the individual

income tax due on the prizes would greatly exceed the bonus commissions. In response to a question from Senator Klein, Mr. Keller indicated that there is no ground swell movement by the retailers to persuade the Lottery to provide retailers with bonus commissions. Senator Klein stated that it was not necessary to pay retailers bonus commissions. Mr. Keller proposed to reduce two of the draft bonus commissions to make them more equitable in relation to the other bonus commissions.

Attorney General Stenehjem expressed his support for the bonus commissions and concurred with the January 1, 2006 starting date. According to Mr. Keller, if the draft rule had been in place when the Lottery began, about \$50,000 of additional commissions would have been paid to retailers.

Commissioner Thoreson made a motion to approve the draft rule. Commissioner Watne seconded the motion. The motion passed 4-1. Senator Klein voted nay.

In regard to a draft rule that would enable the director of the Lottery to waive a license fee for a previously licensed retailer that sells tickets on a temporary basis at a site for a special event, Mr. Keller explained that because the license fee is \$500 for the first year retailers may not be interested, for example, in selling tickets as the State Fair because they may not break even. He said the rule would be financially beneficial for the Lottery.

In regard to a draft rule on ineligible players, Mr. Keller explained that the rule would prohibit a person who is incarcerated or in the United States illegally from being able to buy a ticket or claim a prize on a winning ticket. After discussion, he withdrew the draft rule on a person who is incarcerated because there were too many issues involved, including the type of offense, misdemeanor or felony, whether the person bought the ticket before becoming incarcerated, and whether the person was actually convicted.

In regard to the draft rule on subscriptions, Mr. Keller asked the members of the Commission if they preferred to set a limit on the amount of a player's credit card charges. The Commission decided to evaluate the amount of players' credit card charges at a later date and, if necessary, take appropriate action.

In response to a question by Commissioner Thoreson, Mr. Keller indicated that the Lottery is the only entity presently funding the compulsive gambling prevention and treatment program in the state. Commissioner Thoreson stated that Tribal casinos and charitable organizations should contribute to the program, too.

Commissioner Watne made a motion to approve the draft rules. Commissioner Delmore seconded the motion. The motion passed 5-0.

Update on Lottery Activities

Mr. Keller provided the members of the Commission an overview of the marketing plans for launching the game “2by2” and conducting the “Power Play 10X” promotion, preliminary financial results of the State Auditors Office’s audit, result of temporary part-time employees doing the evening draw duties, and result of applying certain critical success factors in evaluating the Lottery’s financial success, including sales results of the October 2005 Powerball jackpot run.

Adjournment

Commissioner Klein made a motion to adjourn the teleconference. Representative Delmore seconded the motion. The motion passed 5-0.

The teleconference adjourned at 3:10 p.m.